

TESTIMONY

SB2631

HTH Committee Hearing 2/08/2012

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
L.T. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

TO THE SENATE COMMITTEES ON HEALTH
AND COMMERCE AND CONSUMER PROTECTION

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Wednesday, February 8, 2012
2:45 p.m.

TESTIMONY ON SENATE BILL NO. 2631 – RELATING TO HEALTH INSURANCE.

TO THE HONORABLE JOSH GREEN, M.D. AND ROSALYN H. BAKER, CHAIRS,
AND MEMBERS OF THE JOINT COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"),
testifying on behalf of the Department of Commerce and Consumer Affairs
("Department"). The Department takes no position on this bill which mandates health
insurance coverage of treatment for autism spectrum disorders.

However, the Department opposes the requirement on page 2, line 14, and page
7, line 19 that the Commissioner publish a notice of the adjustment of the maximum
benefit.

We thank this Committee for the opportunity to present testimony.

MCCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

PETER J. HAMASAKI
ATTORNEY

DIRECT #S:
PHONE - (808) 529-7333
E-MAIL - HAMASAKI@M4LAW.COM

February 6, 2012

Honorable Josh Green, M.D., Chair
Honorable Clarence K. Nishihara, Vice Chair
Committee on Health
Honorable Rosalyn H. Baker, Chair
Honorable Brian T. Taniguchi, Vice Chair
Committee on Commerce and Consumer Protection
The Senate
State Capitol
415 South King Street
Honolulu, Hawaii 96813

Re: S.B. No. 2631, RELATING TO HEALTH INSURANCE

Dear Chair Green, Chair Baker, Vice Chair Nishihara, Vice Chair Taniguchi, and Committee Members:

On behalf of the American Family Life Assurance Company of Columbus (AFLAC), we respectfully submit the following written comments on S.B. No. 2631, relating to health insurance, which is to be heard by your Committees on Health and on Commerce and Consumer Protection on February 8, 2012.

Our comments are limited to subsection (a) of the new section to be added to article 10A of chapter 431, Hawaii Revised Statutes, by section 2 of the bill, which requires that each "employer group health policy, contract, plan, or agreement" provide coverage for autism spectrum disorders. However, the term "employer group health policy" generally is not used to define the types of insurance subject to article 10A of chapter 431, Hawaii Revised Statutes. Rather, article 10 of chapter 431, Hawaii Revised Statutes, generally applies to "accident and health or sickness insurance."

Although subsections (d), (e) and (j) refer to "health insurance policy," subsection (a), which mandates coverage, does not. Accordingly, if the intent is to mandate autism coverage in insurance policies under chapter 431:10A, Hawaii Revised Statutes, the term "health insurance policy" should be substituted for "health policy."

The use of consistent terminology is important because there are other statutory provisions, particularly section 431-10A-102.5, Hawaii Revised Statute, which are dependent upon the use of the correct terminology in referring to the types of insurance regulated chapter 431:10A, Hawaii Revised Statutes.

Honorable Josh Green, M.D., Chair
Honorable Clarence K. Nishihara, Vice Chair
Committee on Health
Honorable Rosalyn H. Baker, Chair
Honorable Brian T. Taniguchi, Vice Chair
Committee on Commerce and Consumer Protection
February 6, 2012
Page 2 of 2

Thank you for your consideration of the foregoing.

Very truly yours,

MCCORRISTON MILLER MUKAI MACKINNON LLP

A handwritten signature in black ink, appearing to read "Peter J. Hamasaki", with a stylized flourish at the end.

Peter J. Hamasaki

PJH:fk



TESTIMONY IN SUPPORT OF SENATE BILL 2603 and SB2631 INSURANCE COVERAGE FOR AUTISM SPECTRUM DISORDERS

February 6, 2012

Ladies and Gentlemen of the Committee:

I am a Board Certified Behavior Analyst (BCBA) and possess Master's and Bachelor's Degrees in Special Education, as well as being a PhD student at LTI in Exceptionalities. I have worked with children with Autism for over 17 years. We have a service provision agency, and a center based program on Oahu, where we employ staff to provide intensive interventions based on Applied Behavior Analysis (ABA) to children and adolescents with Autism, and other developmental disabilities of Hawaii. We are a group of talented individuals who provide evidence based teaching and behavioral interventions to children/adolescents with Autism/ Aspergers, Mental Retardation (MR), Developmental Delays (DD), ADD/ ADHD and other related disabilities and behavioral challenges. We have 6 Board Certified Behavior Analysts/Assistants, and a Team of well trained Skills Trainers and Tutors.

Services for autism that families receive from the Department of Education (DOE) schools are very limited in the scope that they provide, and many children are not even receiving ABA treatment in school. If Hawaii were to have House Bill 821 pass, this would give motivated families the option to seek additional funding for ABA via their health insurer to have the ability to access scientifically supported ABA services in order to make socially significant changes in their child's behavior, communication and functional skills. This is the reason that I chose this profession-to be an integral part of these significant changes in behavior, communication and functional skills. The progress given a quality ABA program are astounding and life changing!

The research states that educational programs specifically for children with Autism should be comprised of 30-40 hours per week of individualized instruction using ONLY evidence-based teaching procedures. **The only available evidence-based teaching procedures are derived from the ABA literature (National Standards Report, 2009).** We at ABC Group pride ourselves on using the evidence-based interventions we are describing.

In 2009, the National Autism Center (NAC) recommended that educational services begin as soon as a child is suspected of having an autistic spectrum disorder. Such services should include a minimum of 25 hours a week, 12 months a year, in which the child is engaged in systematically planned, and developmentally appropriate educational activity toward identified objectives. What specifically constitutes these hours, however, will vary according to a child's chronological age, developmental level, specific strengths and weaknesses, and family needs. Each child must receive sufficient individualized attention on a daily basis so that adequate implementation of objectives can be carried out effectively. The priorities of focus of instruction should include functional

spontaneous communication, social instruction delivered throughout the day in various settings, cognitive development and play skills, and proactive approaches to reducing behavior problems. To the extent that it leads to the acquisition of children's educational goals, young children with an autistic spectrum disorder should receive specialized instruction in a setting in which ongoing interactions occur with typically developing children (p. 81).

Applied behavior analysis (ABA) is the process of systematically applying interventions based upon the principles of learning theory to improve socially significant behaviors to a meaningful degree, and to demonstrate that the interventions employed are responsible for the improvement in behavior (Baer, Wolf & Risley, 1968; Saltier-Arloff & Mayer, 1991).

ABA has several objectives when used to target a variety of skills or problem behaviors:

- o to increase behaviors (eg reinforcement procedures increase on-task behavior, or social interactions);
- o to teach new skills (eg, systematic instruction and reinforcement procedures teach functional life skills, communication skills, or social skills);
- o to maintain behaviors (eg, teaching self control and self-monitoring procedures to maintain and generalize job-related social skills);
- o to generalize or to transfer well in the mainstream classroom);
- o to restrict or narrow conditions under which interfering behaviors occur (eg, modifying the learning environment); and
- o to reduce interfering behaviors (eg, self injury or stereotypy).

ABA can be used to teach speech articulation, vocabulary, language, gross and fine motor skills, eating and food preparation, toileting, dressing, personal self-care, domestic skills, time and punctuality, money and value, home and community orientation, functional work skills and many others! ABA is not only effective with individuals with Autism, but with individuals with other developmental disabilities, and typically functioning individuals such as you and I as well!

Please consider passing this important bill. I strongly recommend that you also support House Bill 821 to mandate health insurance coverage for autism spectrum disorders in Hawaii. Autism is a developmental disability that results in impaired communication and social interaction. Rates of autism are estimated to be 1:100 kids.

There is an effective treatment for Autism and it is Applied Behavior Analysis (ABA) which is the only intervention recommended by the Surgeon General. When Autism is identified early and with early ABA treatment the symptoms and deficits of autism can be ameliorated and in many cases reversed. The cost of intensive early intervention is minimal compared to the estimated \$3.2 million over the cost of a lifetime, which is ultimately passed on to society and the tax payers who flip the bill to place these adults in residential settings that cost a fortune. That puts a dollar figure on it, but there is no way to measure the lost contributions of afflicted individuals if untreated. Many families who have children with autism are not able to live a normal life, because of their child's significant behavior problems. They are limited in the activities they can participate in as a family, which is so unfortunate to hear when families tell us they can't go to church, or to the beach, or the movies as a family, for fear that their child will have a huge tantrum in public.

Autism can be treated. All that matters right now is that we get the insurance companies involved the way 27 or 28 other states all ready have.

There is currently no cure for autism, however disruptive behaviors and symptoms, are treatable, much like any chronic disease or disorder is treated, and is routinely covered by insurance. Without treatment, there is little chance for leading a normal life. With treatment, some autistic individuals have

actually lost their diagnosis.

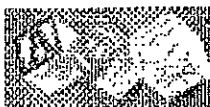
Many insurers will cover gastric bypass (cost \$100, 000) for their patients who are overweight. And they will do this every year if needed. But they will not cover effective treatment for children who have SO MUCH POTENTIAL TO LEARN!

Twenty-three states have already enacted legislation mandating insurance coverage for autism treatment. Indiana has no cap on cost, and most other states have \$50, 000 caps per year. Let's end health insurance discrimination against children with autism in Hawaii and make Hawaii #29 or #30 of the 50 States providing mandated insurance coverage for children with Autism.

Sincerely,



Amy Wiech, M.Ed., BCBA
Board Certified Behavior Analyst
CEO/Founder/Director of Operations



Autism Behavior Consulting Group, Inc. / ABC Group

PO Box 1162, Waialua, Hawaii 96791-1162
Phone: 808-277-7736
E-mail: info@autismbehaviorconsulting.com
www.AutismBehaviorConsulting.com

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VS: 03/01/07

HMSA



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February 8, 2012

The Honorable Josh Green, M.D., Chair
The Honorable Rosalyn H. Baker, Chair

Senate Committees on Health and Commerce and Consumer Protection

Re: SB 2631 – Relating to Health Insurance

Dear Chair Green, Chair Baker and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2631 which would require health plans provide coverage and services for autism spectrum disorders. With all due respect, HMSA always opposes unfunded mandated benefits.

As with SB 2603 which this Committee is concurrently considering, the language in this measure raises many concerns, some of which have been debated in the past before this body. Some of these include issues around:

Autism Providers

SB 2631 would require health plans to allow members to access services provided by "any person, entity, or group that provides treatment of autism spectrum disorders". This statement effectively removes the ability of health plans to ensure that individuals, entities or groups providing services to our members have been properly trained. Under this language anyone could set up an autism treatment program and provide services to our members. We only contract with credentialed individuals who have received appropriate training. We believe that this language would potentially put our members at risk.

Unproven Treatments

Health plans typically provide treatment which is restorative in nature and has been scientifically proven to be efficacious. This measure specifically would allow for treatments to be covered for an indefinite amount of time without demonstrating any positive improvements for our members. Unfortunately there are a number of autism therapies currently in practice which are not supported by clinical evidence.

Duplicative Coverage

We would also like to provide some information from the Hawaii State Auditor's report on the social and financial impacts of mandating the coverage of autism services which was published in 2009. This report cites the fact that most of the children diagnosed with autism in the state are receiving treatment and utilizing services for autism from the Department of Health and the Department of Education. Since these services are already being provided through public entities, passage of this mandated benefit would represent a huge cost shift to the private sector, specifically to employers who provide the lion's share of health care coverage in the State. In the end, the Auditor's report recommended against the enactment of the 2008 autism mandate legislation (SB 2532, SD1, 2008).

To get an idea of the potential cost associated with requiring plans to provide this coverage, we used the Auditor's 2009 estimate that the Hawaii population of children between the ages of zero to 21 (age would be extended under the Affordable Care Act to 26) diagnosed with autism spectrum disorder to be 1,460. If the \$50,000 cap is implemented, and half of those receive services, the cost would be \$36.5 million per year.

Thank you for the opportunity to testify and to express our concerns with SB 2631.

Sincerely,



Jennifer Diesman
Vice President
Government Relations

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM
GARY M. SLOVIN
MIHOKO E. ITO
CHRISTINE OGAWA KARAMATSU
ANNE T. HORIUCHI

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

INTERNET:
gslovin@goodsill.com
meito@goodsill.com
ckaramatsu@goodsill.com
ahoriuchi@goodsill.com

TO: Senator Josh Green, M.D.
Chair, Committee on Health
Senator Rosalyn H. Baker
Chair, Committee on Commerce and Consumer Protection
Via Email: HTHtestimony@capitol.hawaii.gov

FROM: Mihoko E. Ito, Esq.

DATE: February 7, 2012

RE: S.B. No. 2631 - Relating to Health Insurance
Hearing Date: Wednesday, February 8, 2012 at 2:45 pm
Conference Room 229

Attached is testimony from my client, Autism Speaks, in support of S.B. No. 2631.

Thank you.

Attachment.



AUTISM SPEAKS™
It's time to listen.

February 7, 2012

Via Email: HTHtestimony@capitol.hawaii.gov

Senator Josh Green, M.D.
Chair, Committee on Health
Senator Rosalyn H. Baker
Chair, Committee on Commerce and Consumer Protection

Re: S.B. No. 2631 - Relating to Health Insurance
Hearing Date: Wednesday, February 8, 2012 at 2:45 pm
Conference Room 229

Dear Chairs Green and Baker and Members of the Committees:

I am Lorri Unumb, Vice President, State Government Affairs, of Autism Speaks. Autism Speaks was founded in February 2005 and has grown into the nation's largest autism science and advocacy organization, dedicated to funding research into the causes, prevention, treatments and a cure for autism; increasing awareness of autism spectrum disorders; and advocating for the needs of individuals with autism and their families.

Autism Speaks submits testimony in **strong support** of S.B. 2631, which requires health insurers, mutual benefit societies, and health maintenance organizations to provide health care coverage and benefits for autism spectrum disorders beginning after 12/31/2012.

Autism is a complex neurobiological disorder that inhibits a person's ability to communicate and develop social relationships, and is often accompanied by behavioral challenges. Autism spectrum disorders are diagnosed in one in 110 children in the United States, affecting four times as many boys as girls. The prevalence of autism increased 57 percent from 2002 to 2006. The Centers for Disease Control and Prevention has called autism an urgent public health concern whose cause and cure remain unknown.

The U.S. Surgeon General has reported that treatment for autism can spare an individual from life-long dependency as a ward of the state. In the absence of health insurance coverage, families are often required to pay out-of-pocket for treatments that can cost upwards of \$50,000 per year. In the process, many risk their homes and the educations of their unaffected children – essentially mortgaging their entire futures. Worse yet, children born into families without means go untreated. Without treatment, these individuals become a significant financial burden on the state. According to a Harvard School of Public Health study, the lifetime societal cost of autism

is estimated to be \$3.2 million per person. This cost can be reduced dramatically or eliminated with appropriate intervention.

This legislation will ensure that Hawaii families receive the benefit of health coverage for the treatment of autism spectrum disorder, including applied behavior analysis (ABA). The legislation also insures that coverage cannot be denied because a particular treatment is deemed "habilitative" in nature. The bill also contains provisions to ensure that existing services provided through an individualized family service plan, an individualized education plan or an individualized service plan are continued.

Autism Speaks has advocated for the enactment of insurance legislation at the state level across the nation. So far, 29 states have adopted insurance coverage legislation: Arizona, Arkansas, California, Colorado, Connecticut, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, Pennsylvania, Rhode Island, South Carolina, Texas, Vermont, Virginia, West Virginia, and Wisconsin. In the states where the laws are effective, individuals with autism are making remarkable progress, and the impact on premiums has been minimal. The average fiscal impact across five of the early-adopting states that have reported data is approximately 25 cents per month for each member of the plan as a result of the added autism benefit.

In each state that requests an independent actual cost estimate, Autism Speaks has engaged Oliver Wyman Actuarial Consulting, Inc. to prepare a report. Each state report has indicated that the impact upon insurance premiums well under 1% across all markets affected by the legislation. As noted above, experience in other states indicates that impact on premiums has been exceedingly modest, especially during initial years after coverage is provided.

Autism Speaks notes that technical amendments could be made to S.B. 2631 for clarity and consistency

We respectfully ask for your favorable consideration of this measure.

Lorri Unumb, Esq., Vice President
State Government Affairs
Autism Speaks
803-582-9905

Testimony of
Phyllis Dendle
Director of Government Relations

Before:
Senate Committee on Health
The Honorable Josh Green, M.D., Chair
The Honorable Clarence K Nishihara, Vice Chair

Senate Committee on Commerce and Consumer Protection
The Honorable Rosalyn H. Baker, Chair
The Honorable Brian T. Taniguchi, Vice Chair

February 8, 2012
2:45 pm
Conference Room 229

SB 2631 RELATING TO HEALTH INSURANCE

Chairs Green and Baker and committee members, thank you for this opportunity to provide testimony on SB 2631 which proposes to create a specific mandate for coverage for autism spectrum disorders.

Kaiser Permanente Hawaii opposes this bill.

Kaiser Permanente opposes mandated benefits because:

- they dictate how medicine should be practiced regardless of the judgment of physicians and health care providers who are directly involved in providing care,
- they are locked into statute and become outdated, not keeping pace with advances in medical care, and
- they raise the cost of health care which leads to higher premiums for employers and individuals who purchase health insurance.

The legislative auditor did an assessment of proposed mandatory health insurance for autism spectrum disorders in 2009. The benefits proposed here are similar to what the auditor reviewed for the report. The conclusions of the auditor were 1) that the educational services listed in the bill are being provided by the DOE as required under federal law, 2) that health plans were already providing coverage for diagnosis and medical treatment though not to the extent proposed in the bill and 3) that the cost of this mandate is high and will get higher over time and will be borne by purchasers of health plans through higher premiums. We concur with the conclusions of the auditor.

There are a few things in particular we request you scrutinize in this bill. It sets a \$50,000 per person per year limit on just behavioral health treatment. Any other health benefits are not included in the \$50,000. This benefit extends from birth to the person's 26th birthday. This will be costly for each individual.

The bill limits the ability of a health plan to review the care being provided to once a year. It is not possible to effectively determine the outcomes of the treatment and to consider other treatments that might be more effective if there is no real oversight allowed.

Autism service provider, as defined in this bill, is not required to have any license, certification or even qualifications to provide the services described in the bill.

These are just a few of the problems with this bill.

In addition, we are in the process of preparing for the transition to the requirements of the federal accountable care act. With that in mind we urge the legislature to hold off adding more state mandates while implementing the federal law is work in progress.

We request that the committee not pass this bill.

Thank you for your consideration.

Beau Laughlin, M.S., BCBA #1-07-3851
56 Laumewa Lp
Kihei, HI 96753
808-214-4527

February 7, 2012

Re: State Bill 2603 and State Bill 2631

Dear Senator Green and Senator Baker,

I am writing you today to urge you to consider the positive impact State Bill 2603 and 2631 will have on our state and local communities. Hawaii could become the 30th State to enact autism insurance regulations in the Nation.

I am a Board Certified Behavior Analyst that has been practicing in Hawaii for the past 5 years. Applied Behavior Analysis is the science of applying the principles of human learning to increase socially appropriate behavior and help individuals with disabilities to live independently in the least amount of restrictions and interference in theirs and others lives. Applied Behavior Analysis relies on data collection and analysis as the method for determining the effectiveness of interventions. With constant data monitoring and program evaluation we are able to design programs that allow even the most challenging youth to become successful and bring structure to their homes.

I have been utilizing Applied Behavior Analysis with children and adults with Autism for 8 years. During this time I have seen the remarkable effects of this method. Three years ago I was introduced to a 6th grade student with Autism. This student was aggressing hundreds of times a day his aggression was so violent and problematic it interfered with his ability to complete any schoolwork. In his first quarter of school he averaged 94 hits a day. On his worst day he struck those working with him 304 times. By the third quarter his daily average of strikes was 12 per day. One year after the creation, implementation, and continually evaluation and modification of his ABA program he was averaging only one strike per day and spending most of his day engaged in academic or work tasks.

The point I would like to convey with this letter is that ABA in practice is effective. It is the only research-validated treatment for Autism. Those professionals that have and are practicing ABA have always been there to assist and help even when all else has failed. Professionally there is nothing more rewarding to me than to receive praises from a family for the success of their son or daughter. Especially, after typically meeting them when they are at wits end and crying out for help.

Bills like SB 2603 and 2631 will allow more families the option to work with professionals that get results. In the economic times of today it is important that the State of Hawaii Department of Education and State Department of Health do not have to carry the financial burden alone. I have seen first hand the impacts of budget cuts on the progress of Hawaii children and youth with Autism. In my first years in the state many children were receiving 20 or more hours a month of direct ABA services. During that time I saw so many of them make huge strides. Many of them began to show improvements in areas that nobody thought they could make. A lack of early intervention was beginning to be reversed. Then in the Spring of 2010 the DOE began major cuts in special education. The mentality became, "let's just hold it together". Without direct ABA services children began to regress and the progress was being reversed. It is time to require insurance companies to share in providing families with a therapy that works.

If I can be of any assistance during this time of deliberation on SB 2603 and 2631 please do not hesitate to call me. I would be more than happy to share more of my professional work and case examples.

Respectfully,

Beau Laughlin

SB2603 and SB2631

Hawaii faces a subsurface public health crisis. Over one in one hundred of its children are autistic, and that ratio is quickly growing. Overwhelming research shows that the cheapest way to address the epidemic is to provide treatment early, while children are in their peak period of language acquisition before they reach age 7. If this intensive early treatment is not provided, the State is looking at a much more expensive proposition -- providing a lifetime of care to untreated adult autistics who have become entirely dependent on the State.

Currently, there is no insurance coverage outside of Tricare for diagnosis and treatment of the epidemic. 29 other states have recognized the epidemic and mandated coverage. Hawaii has not, so during this time of financial crisis, many of the costs of treating these children are now being borne by the Department of Education and the Department of Health. The DOE faces many well-publicized financial and staffing challenges. Passage of SB2603 and SB2631 would make insurance funds available for provision of desperately needed treatment, for children that are not receiving these services.

Bob Badger

Badger Arakaki, LLLC
Pioneer Plaza, Suite 1140
900 Fort Street Mall
Honolulu, HI 96813-3716

Tel: (808) 566-0855
Fax: (808) 566-0955
E-mail: bob@badgerarakaki.com

Testimony for HTH/CPN 2/8/2012 2:45:00 PM SB2631

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Brenda Kosky

Organization: Individual

E-mail: Brenda.Kosky@gmail.com

Submitted on: 2/5/2012

Comments:

TESTIMONY IN SUPPORT OF SENATE BILL 2631

INSURANCE COVERAGE FOR AUTISM SPECTRUM DISORDERS

Ladies and Gentlemen of the Committee:

I strongly support Senate Bill 2631 to mandate health insurance coverage for autism spectrum disorders. I am a parent of an autistic child. My son is 4 years old, and was diagnosed with autism in 2009, before he was 2 years old. My child receives speech therapy, Applied Behavior Analysis, and Occupational Therapy. Although DOE does a good job with his education, he needs more therapy than can be provided in a school day—and our schools were not set up to provide therapy to individual children, but rather to educate large groups of children in classroom settings.

Autism is a developmental disability that results in impaired communication and social interaction. Autism affects 1 in 110 children, or roughly 1% of the population and this number is steadily increasing. There is treatment for Autism. Caught early and with early treatment the effects of autism can be mitigated and in many cases reversed. The cost of early intervention is minimal compared to the estimated \$3.2 million over the cost of a lifetime, which is ultimately passed on to society. That puts a dollar figure on it, but there is no way to measure the lost contributions of afflicted individuals if untreated.

Autism is not one illness, but a complex disorder that affects many systems of the body. There is no one type of autism. Treatments must be customized for each child, which can result in remarkable improvements. Many insurance companies will not acknowledge that there is a medical component. They will tell you it's simply a learning disability, or that treatment is experimental—that not enough studies have been done to establish root causes and hence treatments. This is untrue. Applied Behavioral Analysis is a proven therapy for autism and has been practiced for decades with great success.

There is currently no cure for autism. The standard of care for autism today focuses on diminishing disruptive behaviors and symptoms, much as any chronic disease or disorder is treated, and routinely covered by insurance. Without treatment, there is little chance for leading a normal life. With treatment, many autistic individuals have actually lost their diagnosis.

Twenty-nine states have enacted legislation mandating insurance coverage for autism treatment. Let's make Hawaii the 30th, and end discrimination against children with autism.

Sincerely,

Janet Edghill